

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14448, of Hip Sing Association, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from retail store/delicatessen to restaurant seating eighteen persons in the HR/SP-2 District at premises 505 H Street, N.W. (Square 485, Lot 30).

HEARING DATE July 9, 1986

DECISION DATE: July 9, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The site consists of a two story building including a basement that occupies most of Lot 30. The building fronts H Street facing south and is between 5th and 6th Streets, N.W. A ten foot wide public alley runs from 5th to 6th Street along the rear of the property. The property is located in Chinatown, an HP/SP-2 District.

2. Presently, the applicant operates a retail grocery store and delicatessen in the basement level of the building under Certificate of Occupancy No. B129117, dated July 30, 1982. The applicant seeks a special exception to change the present use to a restaurant seating eighteen people. The only physical change in the structure would be the moving back of the counter to accommodate the seating.

3. The existing use and the proposed use are first permitted as a matter-of-right in a C-2-A District.

4. The intended clientele of the restaurant are neighboring residents and people who work in the area; basically, people who will arrive on foot. There is also a parking lot across from the site where diners could park.

5. Deliveries will be received every day in both the front and rear of the premises between the hours of 9:00 A.M. and 2:00 P.M.

6. The trash dumpsters in the rear will be emptied by a private pick-up service as often as needed. At present trash removal occurs twice a week. It is anticipated with the restaurant use that the amount of trash will increase.

7. The applicant proposes to operate the premises from 8:00 A.M. to 10:00 P.M. seven days a week.

8. The applicant will employ no more than six workers.

9. Ventilation is provided through an exhaust system to the outside.

10. The applicant will provide no further equipment than now in use.

11. Advisory Neighborhood Commission 2-C filed no recommendation on the application.

12. There was no recorded opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such special exception relief, the applicant must demonstrate substantial compliance with the requirements of Paragraph 7106.11 of the Zoning Regulations and that the relief can be granted as in harmony with the intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. (Sub-section 8207.2)

Paragraph 7106.11 of the Zoning Regulations authorizes the Board to approve a change of nonconforming use to a use which is first permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, provided that:

7106.111 The proposed use will not adversely affect the present character or future development of the surrounding area in accordance with these regulations. Such surrounding area shall be deemed to encompass the existing uses and structures within at least 300 feet in all directions from the nonconforming use.

7106.112 The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, design, and siting effects.

7106.116 The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to

protect the value, utilization, or enjoyment of property in the neighborhood.

The Board concludes that the applicant has met the burden of proof for special exception relief for a change of a nonconforming use pursuant to Paragraph 7106.11. Specifically, the Board concludes that the proposed use will not adversely affect the present character and future development of the neighborhood. Catering to neighborhood residents and employees, the applicant plans to add an eighteen seat restaurant to the carry out business presently conducted on the premises. The only physical change to external or internal effects would be the moving of the counter and possibly an increase in deliveries and trash pick-up. The size of the business noted by the maximum of six employees and the eighteen seat occupancy suggests the minimal increase in trash collection and deliveries. Since no other changes will occur, the granting of the application should not create any adverse exterior noise, illumination, vibration, odor, design, or siting effects. Accordingly, it is hereby ORDERED that this application is GRANTED, SUBJECT to the following CONDITIONS:

1. The maximum number of employees shall not exceed six.
2. The hours of operation shall be from 9:00 A.M. to 11:00 P.M.

VOTE: 5-0 (Charles R. Norris, Paula L. Jewell, William F. McIntosh, Patricia N. Mathews, and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Acting Executive Director

FINAL DATE OF ORDER:

AUG 15 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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